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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 811

UNITED MINE WORKERS OF AMERICA, AN UNINCORPORATED ASSOCIATION, AND JOHN L. LEWIS, INDIVIDUALLY AND AS PRESIDENT OF THE UNITED MINE WORKERS OF AMERICA,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

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vs.

UNITED STATES OF AMERICA, *Respondent*

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

To the Honorable the Justices of the Supreme Court of the United States:

Petitioners, defendants below, pray that a writ of certiorari issue to review the judgments of the District Court of the United States for the District of Columbia, entered in the case of *United States of America* v. *United Mine Workers of America, an unincorporated association, and John L. Lewis, individually and as President of the United Mine Workers of America*, granting a temporary restraining order, an order extending the same, and granting a preliminary injunction, as hereinafter referred to, which

case is now pending in the United States Court of Appeals for the District of Columbia on appeal by petitioners.

Opinion Below

The United States District Court did not file any written opinion in connection with the granting of said orders. Review is sought of the judgment of the United States District Court for the District of Columbia entered on December 4, 1946, granting a preliminary injunction against petitioners, and of the order of said Court on the 18th day of November, 1946, granting a temporary restraining order against petitioners, and of the order of said Court entered on November 27, 1946, extending said temporary restraining order. (The record in this cause, except for the Notice of Appeal herein, is identical with the record in Causes 759 and 760 in which petitions for certiorari were granted by this Court, and which record is now on file in this Court.)

Summary Statement of Matters Involved

These are proceedings for restraining orders and preliminary injunction in the District Court of the United States for the District of Columbia. On November 18, 1946, the District Court, without notice or hearing, issued a temporary restraining order to expire at 3:00 o'clock P. M. on November 27, 1946, and set the time for hearing plaintiff's motion for preliminary injunction at 10:00 A. M. on November 27, 1946 (R. 60).[1]

On November 27, 1946, the District Court, over the objection of petitioners, extended the temporary restraining order (R. 160).

On December 4, 1946, the District Court granted the preliminary injunction against petitioners (R. 102 and R. 85).

[1] All record references herein made are to the record submitted to this Honorable Court by the Government along with their petitions for writs of certiorari in Nos. 759 and 760.

Jurisdiction

The said orders of the District Court were entered on December 4, 1946, November 27th and November 18, 1946.

On December 19, 1946, petitioners filed notice of appeal in the District Court, and said notice was forwarded to the Clerk of the Court of Appeals. The case has not been heard, submitted to, or decided by the Court of Appeals. The jurisdiction of this Court is invoked under the provisions of Section 240 (a) of the Judicial Code, as amended, 28 U. S. C. 347 (a), and Judicial Code, Section 129; Title 28, U. S. C. A. Sec. 227, and Act of March 23, 1932, c. 90, Sec. 10, 47 Stat. 72, Title 29, U. S. C. A. Sec. 110.

Questions Presented

1. Did the District Court of the United States have jurisdiction under the First and Thirteenth Amendments to the Constitution of the United States to issue the temporary restraining order of November 18, 1946, to extend the said temporary restraining order on November 27, 1946, and to issue the preliminary injunction on December 4, 1946?

2. Did the District Court of the United States have jurisdiction or authority under the Act of March 23, 1932, Ch. 90 (47 Stat. 70, 29 U. S. C. 101-115), and under the Act of October 15, 1914, Ch. 323, Sec. 20 (38 Stat. 738, 29 U. S. C. 52), to issue the temporary restraining order of November 18, 1946, and to extend the said restraining order on November 27, 1946, and to issue the preliminary injunction on December 4, 1946?

Reasons for Granting the Writ

1. The questions herein presented are involved in the questions presented in Causes Nos. 781 and 782 (certiorari heretofore granted). The public interest will be promoted

by prompt settlement of the questions involved, since they relate to the issues raised by Causes Nos. 759, 760, 781 and 782, now pending in this Court.

2. Section 240 (a) of the Judicial Code, as amended, specifically authorizes issuance of writ of certiorari "upon the petition of any party," and this Court has said "that the sole essential of this Court's jurisdiction to review is that there be a case pending in the Circuit Court of Appeals." (*Gay* v. *Ruff*, 292 U. S. 25, 30.)

3. Rule 39 provides for proceedings to bring up to this Court on writ of certiorari a case pending in the Circuit Court of Appeals or the United States Court of Appeals for the District of Columbia before judgment is given in such Court.

Conclusion

WHEREFORE, Petitioners respectfully pray that this petition be granted.

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